

REMARKS

Amendments

Claims 1-26 are amended to use language in accordance with conventional US practice and to delete superfluous language. In addition, the claims as original filed included two claims designated as claim 23. The numbering of the claims is also corrected by the above amendments. Claims 12 -13 are converted into method claims and use claims 16 and 18 are converted into method of treatment claims.

Election

In response to the Restriction Requirement, applicants hereby elect Group I, claims 1-10, 14, 15, and 17. In response to the Election of Species Requirement, applicants hereby elect the compound 1-N-[(4-ethynylphenyl)]-2-N-[[3-chloro-4-(3-oxomorpholin-4-yl)phenyl]]pyrazolidine-1,2-carboxamide. See, e.g., the first compound recited in claim 10. The claims which read on the elected species are claims 1-10, 14, 15, and 17. Election of this species is not to be construed as acquiescence to a Restriction within a single claim.

The Restriction Requirement is, however, respectfully traversed. The instant application is a US national phase application of PCT/EP2004/002407, and the Rules for Restriction are governed by PCT Rules 13.1 and 13.2 and Annex B of the PCT Guidelines. Annex B was superseded by the PCT International Search and Preliminary Examination Guidelines issued in 2004. However, the ISPE guidelines on unity of invention are very similar to the prior Annex B.

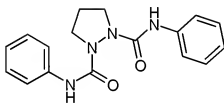
As noted in the Restriction, Annex B, section (e) (ISPE 10.12) states that an independent product claim, an independent process claim specially adapted to manufacture the product, and an independent claim for use of the product is a permissible combination. Specifically, the section states that such a combination does not lack unity of invention under PCT Rule 13.2.

The claims in the instant application include the combination specifically mentioned in Annex B, section (e). The claims of Group I are directed to a product, namely the compounds of the genus recited in claim 1. Claim 11 of Group III is drawn to a process for specially adapted to manufacture this product. Claims 16 and 18 of Group II (and amended

claims 12-13) are drawn uses of this product. Therefore, in view of section (e) of Annex B describing permissible combinations under Rule 13.2, the assertion that there is no special technical feature between Groups I and II and between Groups I and III is incorrect.

The Restriction fails to present any rationale as to why the claims of Groups I-III, especially in light of Annex B section (e), do not satisfy unity of invention pursuant to PCT Rules 13.1 and 13.2. If the Restriction is maintained as to Groups I-III, applicants specifically request that the Examiner clarify why the claims of Groups I-III do not constitute a permissible combination of claims as set forth in Annex B section (e).

Additionally, the claims of Groups I-III are linked by a much larger core structure than that depicted at the bottom of page 3 of the Office Action. Groups I-III are linked by the compounds of Formula I which exhibit the following core structure:



Thus, in view of the above remarks, it is respectfully submitted that the Restriction fails to set for sufficient reasons why Groups II-III are not being examined with elected Group I. Applicants respectfully request that claims 11-13, 16 and 18 be examined together with the claims of elected Group I.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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Date: July 15, 2008